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ANNALS  
OF THE  
AMERICAN ACADEMY  
OF  
POLITICAL AND SOCIAL SCIENCE.

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CONGRESS AND THE CABINET.

In the year 1881, a select committee of the United States Senate was appointed to consider a bill (S. 227) to provide that the principal officer of each of the executive departments may occupy a seat on the floor of the Senate and House of Representatives. On the 4th of February in that year, the Chairman, Hon. Geo. H. Pendleton, reported back the bill, and recommended its passage as follows, said report being signed unanimously by the eight members of the committee, consisting of Geo. H. Pendleton, W. B. Allison, D. W. Voorhees, J. G. Blaine, M. C. Butler, John J. Ingalls, O. H. Platt and J. T. Farley. A cordial agreement, be it observed, of Democrats and Republicans. The bill provides :

“That the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, the Secretary of the Interior, the Attorney-General, and the Postmaster-General shall be entitled to occupy seats on the floor of the Senate and House of Rep-

representatives, with the right to participate in debate on matters relating to the business of their respective departments, under such rules as may be prescribed by the Senate and House respectively.

SEC. 2. "That the said Secretaries, the Attorney-General, and the Postmaster-General shall attend the sessions of the Senate on the opening of the sittings on Tuesday and Friday of each week, and the sessions of the House of Representatives on the opening of the sittings on Monday and Thursday of each week, to give information asked by resolution, or in reply to questions which may be propounded to them under the rules of the Senate and House ; and the Senate and House may, by standing orders, dispense with the attendance of one or more of said officers on either of said days"

"The first section provides for a voluntary attendance, to take part in debate. The second section provides for a compulsory attendance, to give information. In order to carry into effect the second section, rules somewhat like the following should be adopted by each house, *mutatis mutandis* : "

"That the Secretary of the Senate shall keep a notice-book, in which he shall enter, at the request of any member, any resolution requiring information from any of the executive departments, or any question intended to be propounded to any of the Secretaries, or the Postmaster-General, or the Attorney-General, relating to public affairs or to the business pending before the Senate, together with the name of the member and the day when the same will be called up.

"The member giving notice of such resolution or question shall, at the same time, give notice that the same shall be called up in the Senate on the following Tuesday or Friday: *Provided*, That no such resolution or question shall be called up, except by unanimous consent, within less than three days after notice shall have been given.

"The Secretary of the Senate shall, on the same day on which notice is entered, transmit to the principal officer of the proper department a copy of the resolution or question, together with the name of the member proposing the same, and of the day when it will be called up in the Senate.

"In the Senate, on Tuesday and Friday of each week, before any other business shall be taken up, except by unanimous consent, the resolutions and questions shall be taken up in the order in which they have been entered upon the notice-book for that day.

"The member offering a resolution may state succinctly the object and scope of his resolution and the reasons for desiring the information, and the Secretary of the proper department may reply, giving the

information or the reasons why the same should be withheld, and then the Senate shall vote on the resolution, unless it shall be withdrawn or postponed.

"In putting any question to the Secretaries, or the Attorney-General, or Postmaster-General, no argument or opinion is to be offered, nor any fact stated, except so far as may be necessary to explain such question; and, in answering such question, the Secretary, the Attorney General, or Postmaster-General shall not debate the matter to which the same refers, nor state the facts or opinions other than those necessary to explain the answer."

"These rules relate only to the execution of the last section of the bill—to giving information—to putting and answering questions. They in no wise affect the debate permitted and invited by the first section. They have been framed after a most careful examination of the rules and modes of procedure of the British Parliament and French Assembly, and are believed to contain the best provisions of both. They are framed to accomplish the purpose of obtaining the needed information with the least interference with the other duties of the heads of departments. No question can be called up unless after three days' notice to the Secretaries; and the answers are limited to the specific points of the question, in order that accuracy may be attained. These rules may be amended as experience shall show their defects."

"The bill confers a privilege and imposes a duty on the heads of departments. The privilege is to give their suggestions and advice in debate, by word of mouth; the duty is to give information orally and face to face."

The report, which follows the above, sets forth some of the advantages of the measure, its consistency with the constitution of the United States, and the almost universal prevalence of a corresponding practice in all countries which make even a pretence to representative government. Almost at the outset the report says: "The advantages of the system proposed are so obvious and manifold that the committee feels itself relieved from a detailed statement of them and confines this report to an examination of the question of its constitutionality."

It seems somewhat strange that a measure thus unanimously endorsed by a committee of both parties, presenting advantages so obvious, and with so complete a demonstration of its accordance with the constitution, should never since have received the slightest attention from either House of Congress, or from the executive. The explanation of this circumstance is of more importance than the actual analysis of the measure itself. In fact the dismissal by the report, in the few words above quoted, of the whole question of its political bearing has an exceedingly suspicious look, as if the committee did not care to assume the burden of a discussion in which they saw plainly that a tide of opposition was sure to set in. The grounds of this opposition may be stated under two heads :

I. The conservatism, or, if you please, the patriotism, which objects to a revolution in our traditional forms of business, arguing that either the change is too unimportant to care about, or else that under our system it cannot be made to work successfully.

II. The powerful private interests which would be injured by it, against which the public interest has little chance to be heard.

It is generally admitted that the main features of our Federal constitution were copied from the government of Great Britain, and though it has been contended with much force by Mr. William C. Morey, in the April (1891) number of this magazine, that it was based upon the colonial constitutions which were themselves modelled upon the charters of the great British trading companies, the result is not much affected as far as the present inquiry is concerned. Now the leading feature of the British constitution is the government of the cabinet in parliament, so ably described by Mr. Bagehot, and, as the framers of our constitution did not introduce this feature, it is assumed that they did not intend to have it. Nearly all foreign observers maintain that it is wholly incompatible with our constitution, and Mr. Bagehot draws an elaborate distinction of what he calls presidential from parliamentary forms,

based entirely upon the absence of this cabinet government and says triumphantly that while the Americans have many excellent things, this they have not and cannot have. On the other hand Mr. James Bryce (*American Commonwealth*, Vol. I., Chap. XXV, p. 279) says :

“These observations may suffice to show why the fathers of the constitution did not adopt the English parliamentary or cabinet system. They could not adopt it because they did not know of its existence. They did not know of it because it was still immature, because Englishmen themselves had not understood it, because the recognized authorities did not mention it. Whether the fathers would have imitated the cabinet system, had it been proposed to them as a model, may be doubted. But as the idea never presented itself, we cannot say that it was rejected, nor cite the course they took as an expression of their judgment against the system under which England and her colonies have so far prospered.”

We have next to consider whether the measure could be made to work successfully. It is objected that the English ministry resign when the majority of the House of Commons is against them, and that such a practice here would be wholly inconsistent with our fixed terms, especially as the ministry have the power of dissolving parliament as a weapon of self-defence, which our cabinet could not have as against Congress. The fatal instability of the French ministries depends largely upon the fact that they have not the power of dissolution, which belongs to the president and the senate acting jointly. This feature, it may be replied, is not at all essential to the system, but only a consequence of the method by which the British ministry as well as the French is appointed. The former, as Mr. Bagehot has pointed out, is a committee of, and practically elected by, the majority of parliament. Of course the creature must obey its creator. As the majority makes the ministry, the majority is the only power which can unmake it, and the ministry must spend most of its strength in fighting for life. If our cabinet were to resign at the bidding of Congress, the power of appointment would soon be transferred from the President to Congress and the former would become a mere cipher. This weakness is increased by another circumstance, namely,

that parliament does not choose the whole ministry, but only indicates imperatively to the queen the candidate for the premiership, and this individual is invited by the queen to form a ministry. He does this by inviting in his turn certain other men, of equal standing with and as independent as himself, to join him. He can secure them only by promising to stand by them, that is to make his own resignation a consequence of their defeat. The whole fabric is in a condition of unstable equilibrium, being exposed to entire collapse through an accident to any one of its parts. The conditions of our government are wholly different. The President is chosen, to speak conventionally, by the whole nation, and appoints his cabinet, which the Senate seldom or never refuses to confirm. Neither he nor the cabinet are in any way dependent upon Congress for existence and he can support or remove any member of the cabinet at his pleasure. The objectors say that this would have one of two consequences either of which would be fatal; either the cabinet would be so brow-beaten and bullied that their situation would become intolerable, and the whole executive be humiliated, or else by exercising power and intrigue, the executive would overshadow the legislature to the manifest danger of our institutions.

As to the first point it must be remembered that the sympathy of the people would always incline towards the executive, both on account of the element of personality and because, as the agent of the whole, he would wield a force of public opinion much stronger than that at the disposal of any part or number of parts. Factious opposition or criticism on the part of members would be restrained by the fear of losing their seats. It would be perfectly easy for a cabinet officer by dignity and self-control to secure corresponding treatment on the part of the houses. If those bodies refused to pass measures desired by the government, or insisted upon those opposed by it, the executive could accept the results, just as it does now, but with such measure of protest or force of argument as would carry weight in the next elections. The protection against the abuse of power on the part of the executive would be just as great.

Instead of being always shielded by a party vote as the price of subserviency to party purposes, or, on the other hand, if the party majority was of opposite politics, of being hampered to the point of impotence, the members of the cabinet would be exposed to criticism and cross-examination by individuals of either party or independent, and would thus be unable to carry on secret intrigues. Whatever power they did exercise would have to be displayed in full view of Congress, always sufficiently jealous of prerogative, and in that of the nation, which would either approve or condemn it at the next elections. The experience of the British government is at least conclusive on this point. It is beyond question that precisely this public and personal responsibility has converted both parliament and ministry from the corrupt condition of Walpole's time and half a century later, gradually but steadily to the purified condition of the present day, has extinguished bribery at elections, and to that end has led the House of Commons to surrender its control in the case of disputed elections into the hands of the courts. It is this personal responsibility which has been the instrument of carrying into effect more extensive and at the same time peaceful reforms in the interest of the masses of the people at large, than have been achieved in the same time by any other nation in the world.

We come next to the class of objections, which may be described under the head of vested interests, and which are so numerous and so powerful that they might well cause despair in any less important cause. The central fact around which they all turn, and which is more important than all others to be kept in mind, is that the people of the United States as a whole are not represented at all in either House of Congress. Every man who can speak there, represents either a State or a district, is responsible only to that locality, and has neither interest nor authority to act or speak for the whole country. When the house of representatives assembles, its 325 members are all precisely equal, for the most part strangers to each other, and without any official guide or leader whom they can look up to, so that they are compelled to submit to certain



self constituted party managers. The nearest approach to a leader is the Speaker, whom, being nominally a presiding officer to conduct deliberations, we have seen aspiring to an almost despotic control over legislation. Such a body can only get to work by splitting itself up into a number of standing committees, made up at the pleasure of the speaker, who gives all the most important places in them to those members who have been most active in securing his election. This is an arrangement so fruitful of corruption and jobbery that it would drag down and corrupt the purest and ablest body of men in the world. For the working of the committee system I need only refer to Prof. Woodrow Wilson's work on "Congressional Government". The result is that no question is ever considered, debated, or acted upon from the point of view of the general interest of the people. It is simply a matter of securing the largest number of local and party votes by private manipulation, intrigue, lobbying, and the manufacture of a spurious and fictitious public opinion. The McKinley tariff bill, the silver coinage bill, the pension bill are the results of just this process, and whether good or bad are in no way the concentrated expression of a national public opinion. Now the presence of the cabinet officers in Congress would exactly reverse this process. It would apply to every scheme brought forward the touchstone of its relation to the general public interest, represented by a national official deriving his authority through the president from the whole people. Again, when Congress meets not one single item of business is prepared for either branch. The president and cabinet indeed send in messages and reports, but they contain merely general recommendations which can claim no precedence over thousands of private schemes and motions brought forward by members and Senators, either for themselves or their party and local supporters. The whole mass is sent upon a precisely equal footing to the standing committees, and what attention, if any, they receive, must depend upon the amount of private and party influence which is brought to bear upon the committees. During the interval, from one to five months, while this pro-

cess of incubation is taking place, the main bodies have little or nothing to do, and are apt to illustrate the saying of Mr. Bagehot, that if you get together the ablest body of men and give them nothing to do they will quarrel about that nothing. If the cabinet, as proposed, occupied seats in the house, they would be ready to present at the opening of the session a series of measures perfectly prepared from the point of view of the general interest, and would at once demand and receive for these the attention of the houses in separate succession, instead of as now everything being left to come in with a confused rush at the end of the session, so that anything like debate or calm consideration is impossible. As in the smoke and turmoil of battle, it is impossible to see what is doing, until all is over, and it is too late for remedy. It is obvious that the existing state of things gives an enormous advantage to private and party interest in the hands of skilled manipulators under the stimulus of direct gain, as against the interest of the people at large who have no agent or representative. Further than this, as the whole business of Congress is done in the privacy of the committee rooms, by the action of majorities and minorities, with hardly any personal agency which the public can see, the voters, even of the local constituencies, have no guide to the selection of candidates and this accordingly falls into the hands of party managers in the nominating conventions, working in affiliation with the forces which surround Congress, while the voters have only the choice between the names put forward by the two sets of managers known as the Republican and Democratic. For this reason it has come to be considered at least wanting in taste for a man to offer himself to a constituency as a candidate for Congress, because he is to receive a considerable salary with an agreeable residence in Washington, while it is out of his power to offer any consideration in past or future achievements, at least of a kind for which he can establish a personal credit. From this cause, again, has grown up the restriction, not at all required by the constitution, that a member shall be a resident of the district from which he is elected. If it were a

question of a lawyer, a physician or a business agent, the absurdity of this would be at once apparent, but when it involves not something to do but something to get, there is a natural desire to retain such a perquisite in the district, while fairness requires that it should not be held by any person for more than one or two terms, even though the experience he has gained may be of great value to the public service. The presence of the cabinet officers would tend to reverse this. If the business were transacted in public, members would appear as individuals in relation to it, could go to their constituents with a record and evidence of work done, and a pledge of future effort in the same direction. They would no longer hesitate to offer themselves as candidates and the popular choice would not be limited to convention nominees, whose first and last qualification is that they have proven themselves submissive to the discipline of party managers.

In what has been said, I have by no means attempted to show all the advantages to be derived from the measure proposed in the Senate report, or the weakness of the objections to it. The doing this would furnish matter for a considerable volume. My present object has been only to explain the reason why a report of such importance has never received the slightest attention from Congress, namely, that under our present practice a network of private interests has grown up which would be seriously prejudiced and endangered by such a change ; that while the change would greatly promote the interest of the mass of the people, these masses have no common agent or representative, and while the initiative thus far lies wholly with Congress, the influences which surround and control that body have quite different objects in view. The only chance of the reduction of the matter of that report to practice lies in two directions, first, that a voluntary association should be formed for securing it by popular agitation, as to which it may be said that the whole force of that kind is now applied to the attainment of details, civil service, tariff and currency reform, that of Indian administration and so on, and has not yet grasped the idea of a general principle which

should include them all. The other expedient is, that some President should have the intellect and courage to take in the situation, and make it the subject of a direct appeal to the nation under cover of a message to Congress, as to which again it may be said that this is hardly the kind of fruit which experience justifies us in expecting from nominating conventions.

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